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AUG 20 2002

**DIRECTOR OFFICE
TECHNOLOGY CENTER 2600**

In re Application of
Togashi, et al.
Application No. 09/518,729
Filed: March 3, 2000
For: DISC CHANGER

:
:
: DECISION ON PETITION TO
: WITHDRAW HOLDING
: OF ABANDONMENT
:

This is in response to the petition filed July 16, 2002, to withdraw the holding of abandonment of the above-identified application.

This application is in an abandoned status for failure to pay the issue fee in response to the Notice of Allowance and Issue Fee Due mailed on February 11, 2002. A Notice of Abandonment was mailed on June 27, 2002.

Petitioner asserts that the Notice of Allowance and Issue Fee Due mailed February 11, 2002 was not received. In the absence of any irregularity in the mailing of an Office action, there is a strong presumption that the action was properly mailed to practitioner at the address of record. This presumption may be overcome by a showing that the Office action was not in fact received. The showing required to establish the failure to receive an Office communication must include a statement from the practitioner stating that the Office communication was not received by the practitioner and attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received. A copy of the docket record where the non-received Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement. See "Withdrawing the Holding of Abandonment When Office Actions Are Not Received" 1156 Official Gazette 53 (November 16, 1993) and M.P.E.P. § 711.03(c). The showing outlined above may not be sufficient if there are circumstances that point to a conclusion that the Office communication may have been lost after receipt rather than a conclusion that the Office communication was lost in the mail.

A review of the record indicates that the Notice of Allowance was properly mailed to the practitioner of record at the correspondence address of record at the time of mailing. Thus, there was no irregularity in mailing the Notice of Allowance on the part of the United States Patent and Trademark Office.

In support of the petition, the petitioner has submitted a statement by petitioner's attorney, Jonathan A. Kidney that the Notice of Allowance was never received. Copies of docket records, for the above-identified application where the non-received Notice of Allowance would have been entered had it been received and docketed were attached. However, it is noted that the petition is providing a showing to establish non-receipt at the present address of record shown

above. A change to this address was made on July 16, 2002 subsequent to the mailing of the Notice of Allowance. The required showing must include evidence of non-receipt at the address of record at the time of mailing the Notice of Allowance. The address of record at that time was:

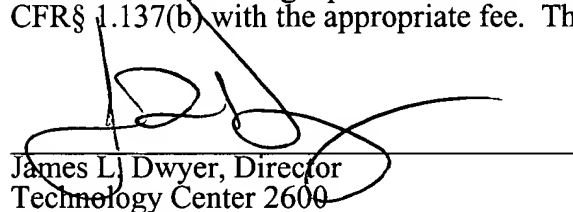
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Petitioner has not made a sufficient showing of non-receipt of the Notice of Allowance at the address of record at the time of mailing in accordance with the requirements set forth above.

The petition is **DENIED**.

The change of address filed July 16, 2002 will be entered.

Any request for reconsideration must be filed within **TWO MONTHS** of the date of this decision and should include a statement from the practitioner as outlined above. Petitioner may wish to consider filing a petition to revive an unintentionally abandoned application under 37 CFR§ 1.137(b) with the appropriate fee. The file is being forwarded to the files repository.



James L. Dwyer, Director
Technology Center 2600
Communications